

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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FAUN O'NEEL, individually and as  
Guardian Ad Litem for her  
children B.T., A.O., D.O., and  
A.T.,

Plaintiffs,

No. 2:21-cv-02403 WBS DB

ORDER

v.

CITY OF FOLSOM, a public entity;  
SPENSER HEICHLINGER, an  
individual; MELANIE CATANIO, an  
individual; LOU WRIGHT, an  
individual; DOE CITY OF FOLSOM  
DEFENDANTS, individuals; KERYN  
STARKS, an individual; SASHA  
SMITH, an individual; COUNTY OF  
SACRAMENTO, a public entity; DOE  
DCFAS DEFENDANTS, individuals;  
and DOES 1 through 10,  
inclusive,

Defendants.

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Defendant County of Sacramento ("defendant") filed an  
ex parte application to extend discovery and trial deadlines.  
(Appl. (Docket No. 53).) Plaintiffs opposed. (Opp'n (Docket No.

1 54).)

2 On September 5, 2023, plaintiffs filed their Third  
3 Amended Complaint ("TAC"). (Docket No. 49.) The TAC adds two  
4 defendants<sup>1</sup>, three judicial deception & continued detention  
5 claims, and new allegations for damages. (Id.; Appl. Mem.  
6 (Docket No. 53-1) at 2-4.) Defendant seeks a 90-day extension to  
7 discovery and trial-related deadlines to conduct discovery  
8 relating to these additions. Plaintiffs argue that this is not  
9 an earnest request because fact discovery has now been open for  
10 over a year, but none of the defendants have made any discovery  
11 requests or attempted to depose any witnesses. (Opp'n at 2.)  
12 Plaintiffs further allege that they would be prejudiced by an  
13 extension because it would add to their legal expenses. (Id. at  
14 5.)

15 Parties conferred, unsuccessfully, about a stipulated  
16 agreement for extending deadlines. Plaintiffs offered defendant  
17 a 30-day extension of all pre-trial dates, but only if all  
18 defendants would stipulate that expert testimony on the issue of  
19 exigency/warrantless removals "do[es] not apply." (Appl. Mem. at  
20 4.) That offer was apparently declined, and defendant's instant  
21 ex parte application is the result.

22 A party seeking to modify a scheduling order must make  
23 a showing of good cause, a standard which focuses on the  
24 diligence of the moving party. Fed. R. Civ. P. 16(b) (4); Johnson  
25 v. Mammoth Recreations, Inc., 915 F.2d 604, 608-09 (9th Cir.  
26 1992). Plaintiffs' recent filing of the TAC and defendant's

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27 <sup>1</sup> One of the new defendants, Sasha Smith, is now  
28 represented by the County of Sacramento. (Appl. Mem. at 4.)

1 reasonable diligence in seeking an extension shortly thereafter  
 2 provide sufficient good cause to modify the scheduling order.  
 3 Further, while the court takes note of plaintiffs' charge that no  
 4 defendant has undertaken any discovery up to this point,  
 5 plaintiffs fail to demonstrate any concrete, overriding prejudice  
 6 they would suffer from any extension. Accordingly, the court  
 7 will extend discovery and trial-related deadlines by 60 days,  
 8 with adjustments as necessary to account for weekends, holidays,  
 9 and the court's availability for pretrial conference and trial.

10 IT IS THEREFORE ORDERED that the Stipulated Request to  
 11 Continue Pre-Trial Deadlines Order (Docket No. 46) and Status  
 12 (Pretrial Scheduling) Order (Docket No. 34) be, and the same  
 13 hereby are, MODIFIED as follows:

<b>Deadline</b>	<b>Existing</b>	<b>As Modified</b>
15 Disclosure of experts and 16 production of Fed. R. 17 Civ. P. 26(a)(2) reports	September 28, 2023	November 27, 2023
18 Disclosure of rebuttal 19 experts and production of 20 Fed. R. Civ. P. 26(a)(2) 21 reports	October 16, 2023	December 15, 2023
22 Completion of all 23 discovery, including 24 depositions for 25 preservation of 26 testimony; all discovery 27 motions	November 22, 2023	January 19, 2024

Deadline	Existing	As Modified
All motions, except motions for continuances, temporary restraining orders, or other emergency applications	December 15, 2023	February 13, 2024
Final pretrial conference	February 26, 2024, at 1:30 p.m. in Courtroom No. 5	May 6, 2024, at 1:30 p.m. in Courtroom No. 5
Jury trial	April 23, 2024	June 25, 2024, at 9:00 a.m. at Courtroom No. 5

IT IS SO ORDERED.

Dated: September 28, 2023



**WILLIAM B. SHUBB**  
**UNITED STATES DISTRICT JUDGE**